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13 Attorneys for Defendant,
SPRINT SOLUTIONS, INC.

14 UNITED STATES DISTRICT COURT
15
16 NORTHERN DISTRICT OF CALIFORNIA

17 RUDOLPH THOMAS, Individually
and on behalf of all others similarly
18 situated,,
19

20 Plaintiff,

21 v.

22 SPRINT SOLUTIONS, INC., d/b/a
SPRINT, SPRINT PCS and/or
NEXTEL,
23

24 Defendants.

Case No. CV 08 5119 TEH

**STIPULATION & ~~PROPOSED~~
ORDER RE CASE MANAGEMENT
CONFERENCE**

Dept: 12

Judge: Hon. Thelton Henderson

[Complaint Filed: November 10, 2008]

STIPULATION

WHEREAS, on June 9, 2010, the Court entered an order scheduling a case management conference on October 4, 2010 for control purposes, and ordered the parties to advise the Court in a stipulated request to continue the case management conference for not more than 120 days if the FCC matter has yet to be resolved by that date;

WHEREAS, on September 28, 2010, the Court entered an order continuing the case management conference to January 31, 2011 at 1:30 p.m. and ordered that the parties file a joint case management conference statement on or before January 24, 2011;

WHEREAS, on January 25, 2011, the Court entered an order continuing the case management conference to April 25, 2011 at 1:30 p.m. and ordered that the parties file a joint case management conference statement on or before April 18, 2011;

WHEREAS, on April 19, 2011, the Court entered an order continuing the case management conference to June 20, 2011 at 1:00 p.m. and ordered that the parties file a joint case management conference statement on or before June 13, 2011;

WHEREAS, on June 13, 2011, the Court entered an order continuing the case management conference to August 22, 2011 at 1:30 p.m. and ordered that the parties file a joint case management conference statement on or before August 8, 2011;

WHEREAS, the FCC matter has not yet been resolved as of the date of filing of this Stipulation;

1 WHEREAS Sprint Solutions believes that the FCC proceedings will be
2 dispositive, in the event that they are not, then the recently decided case of *AT&T*
3 *Mobility, LLC v. Concepcion*, __ U.S. __, 131 S.Ct. 1740 (2011), applies in this
4 case. Plaintiffs disagree that the *Concepcion* holding is applicable to this action.
5 Sprint Solutions requests the Court's guidance as to whether it should file its motion
6 to compel arbitration presently, or whether it should wait until after the FCC has
7 concluded proceedings. Plaintiffs will oppose any motion to compel arbitration.

8
9 The parties STIPULATE as follows:

10
11 If the Court prefers that Sprint Solutions file its motion to compel arbitration
12 presently, the parties shall attend the case management conference set for
13 August 22, 2011 at 1:30 pm. If, however, the Court prefers that Sprint Solutions file
14 its motion to compel arbitration after the FCC has concluded proceedings, the case
15 management conference shall be continued to October 24, 2011 at 1:30 p.m., or any
16 date thereafter convenient for the Court's calendar, unless the FCC resolves the
17 matter prior to that date, in which case the parties will contact the Court within two
18 weeks of the FCC's ruling and request a case management conference with this
19 Court within the earliest reasonable time frame.

20
21 Dated: August 8, 2011

22 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

23
24 By _____ /s Fred R. Puglisi

25
26 FRED R. PUGLISI
27 Attorneys for Defendant
28 SPRINT SOLUTIONS, INC.

1 Dated: August 8, 2011

2 Meade & Schrag LLP

3
4 By _____ /s Michael Schrag

5 Attorneys for Plaintiffs
6 RUDOLPH THOMAS and ASHLEE SMITH
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~~PROPOSED~~ ORDER

(court to check all that apply)

☐ The Court prefers that Sprint Solutions file its motion to compel arbitration presently. The parties shall attend the case management conference set for August 22, 2011 at 1:30 pm.

☒ The Court prefers that Sprint Solutions file its motion to compel arbitration after the FCC has concluded proceedings. The case management conference is continued to October 24, 2011 at 1:30 p.m. The parties shall meet and confer and file a joint case management conference statement on or before October 10, 2011.

IT IS SO ORDERED.

Dated: August 9, 2011

